



**MONTANA
ADMINISTRATIVE
REGISTER**



ISSUE NO. 4 – FEBRUARY 21, 2025

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**MONTANA
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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-168.1

Summary

Amendment of ARM 37.47.101, 37.47.102, 37.47.106, and 37.47.111 and repeal of ARM 37.47.107, 37.47.901, 37.47.904, and 37.47.905 pertaining to adult protective services

Hearing Date and Time

Thursday, March 13, 2025, at 9:00 a.m.

Virtual Hearing Information

Join Zoom Meeting at: <https://mt-gov.zoom.us/j/88203004116?pwd=wtFTnfoZHvLTi6WqAvleXSmbBjVeMu.1>

Meeting ID: 882 0300 4116, and password: 271918;

Dial by telephone: +1 646 558 8656, meeting ID: 882 0300 4116, and password: 271918.

Find your local number: <https://mt-gov.zoom.us/u/kej5YVYtwq>

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, March 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, February 27, 2025, at 5:00 p.m.

Contact

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Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

37.47.101 ADULT PROTECTIVE SERVICES: PURPOSE

- (1) ~~Adult protective services are services intended to reduce or remove the risk of physical or mental harm that has occurred or is occurring to a vulnerable adult, as a result of abuse, neglect, or exploitation.~~ Adult Protective Services (APS) investigates allegations of abuse, sexual abuse, neglect, or exploitation of vulnerable adults.
- (2) APS does not provide direct support or personal care services but may refer individuals to state and local providers offering services aimed at reducing risk and addressing concerns related to adult maltreatment.

Authorizing statute(s): 52-3-205, 52-3-802, MCA

Implementing statute(s): 52-3-205, 52-3-804, MCA

37.47.102 ADULT PROTECTIVE SERVICES: DEFINITIONS

As used in this subchapter, the following definitions apply:

- (1) ~~"Aged person" means a person 60 years of age or older. "Adult maltreatment" has the meaning provided in 45 CFR 1324.401.~~
- (2) ~~"Department" means the Department of Public Health and Human Services, as defined in 2-15-2201, MCA.~~
- (3) ~~"Disabled adult" means a person 18 through 59 years of age who is defined as disabled pursuant to 53-19-102, MCA, or who is a person with developmental or intellectual disabilities, as defined in 53-20-102, MCA, or who is determined to be:~~
 - (a) ~~disabled by the Social Security Administration;~~
 - (b) ~~fully disabled by the Veterans' Administration;~~
 - (c) ~~disabled by the department's Vocational Rehabilitation Division;~~
 - (d) ~~adjudicated disabled by a court of competent jurisdiction;~~
 - (e) ~~eligible for the medically needy program, as set forth in ARM 37.82.1107, because of disability; or~~
 - (f) ~~intellectually disabled as determined by the department as defined by 53-20-102, MCA.~~
- (4)(3) ~~"Non-voluntary services" means emergency protective services provided under court order to a vulnerable adult.~~
- (5)(4) ~~"Protective services" means services to reduce or remove the risk of physical or mental harm that has occurred or is occurring to a vulnerable adult, as a result of abuse, neglect, or exploitation has the meaning provided in 52-3-202, MCA.~~
- (6)(5) ~~"Voluntary services" means protective services requested or accepted by a vulnerable adult.~~
- (7)(6) ~~"Vulnerable adult" means an "aged person" or "disabled adult." has the meaning provided in 52-3-803, MCA.~~
- (8)(7) ~~"Ward" means an incapacitated person for whom a guardian has been appointed by a court of competent jurisdiction.~~

Authorizing statute(s): 52-3-205, 52-3-802, MCA

Implementing statute(s): 52-3-205, 52-3-804, MCA

37.47.106 ADULT PROTECTIVE SERVICES: AVAILABLE SERVICES

- (1) Adult protective services will be provided when necessary to any vulnerable adult.
- ~~(1)~~(2) Voluntary services include, ~~but are not limited to:~~
- (a) identifying ~~persons~~ vulnerable adults needing protective services through referrals reports received;
 - (b) investigating ~~referrals~~ reports of adult maltreatment and identifying ~~problems~~ to determine the extent and types of services needed;
 - (c) ~~assisting in locating behavioral health services for the individual and family;~~ making referrals for:
 - (i) behavioral health services for the vulnerable adult and family;
 - ~~(d)~~ (ii) ~~assisting in locating~~ appropriate alternative living arrangements or protective placements;
 - (e) (iii) ~~enlisting support and services from interested~~ available persons or agencies;
 - (f) (iv) ~~assisting in arrangement of~~ medical health related services; or
 - (g) (v) ~~assisting in locating~~ legal services;
 - ~~(h)~~ providing advocacy; or
 - (i) ~~assisting in arranging services to preserve or enhance the current living arrangement, when desirable, in the best interest of the vulnerable adult.~~
- ~~(2)~~(3) Non-voluntary services may include any voluntary service under ~~(1)~~(2) and any other services ordered by the court through guardianship proceedings.
- (4) Adult protective services will be provided when necessary, without regard to income, to any vulnerable adult.
- (5) Services are available to Montana residents or to any vulnerable adult located in the state of Montana.

Authorizing statute(s): 52-3-205, 52-3-802, MCA

Implementing statute(s): 52-3-205, 52-3-804, MCA

37.47.111 ADULT PROTECTIVE SERVICES: OBTAINING SERVICES

- (1) Unless directed otherwise by the APS bureau chief, tThe Adult Protective Services office of the county regional office in which near where the vulnerable adult resides or is found will investigate requests reports for protective services of adult maltreatment and make referrals to state and local providers if appropriate.
- (2) Request Referrals for service is may be accepted by from the vulnerable adult on their own behalf or by from any relative or persons interested in the individual's safety and wellbeing an authorized alternate decision-maker, such as a person who holds the vulnerable adult's power of attorney or has been appointed as guardian to the vulnerable adult.
- (3) A request report for service of adult maltreatment may be written, electronic, or oral.
 - (a) All reports must be made through the Adult Protective Services (APS) Intake. This can be by phone or the online reporting portal, and may be made anonymously.
 - (b) If a person calls, visits, or writes to a department office other than the APS Intake to report adult maltreatment, that department office shall refer the person or written communication to the APS Intake.

Authorizing statute(s): 52-3-205, 52-3-802, MCA

Implementing statute(s): 52-3-205, 52-3-804, MCA

REPEAL

The rules proposed to be repealed are as follows:

37.47.107 ADULT PROTECTIVE SERVICES, ELIGIBILITY

Authorizing statute(s): 52-3-205, 52-3-802, MCA

Implementing statute(s): 52-3-205, 52-3-804, MCA

37.47.901 HOME ATTENDANT SERVICES, DEFINITION

Authorizing statute(s): 53-2-201, MCA

Implementing statute(s): 53-2-201, MCA

37.47.904 HOME ATTENDANT SERVICES, ELIGIBILITY

Authorizing statute(s): 53-2-201, MCA

Implementing statute(s): 53-2-201, MCA

37.47.905 HOME ATTENDANT SERVICES, SERVICES AVAILABLE

Authorizing statute(s): 53-2-201, MCA

Implementing statute(s): 53-2-201, MCA

General Reasonable Necessity Statement

The Senior and Long Term Care Division of the Department of Public Health and Human Services proposes updates to the Adult Protective Services (APS) rules, pursuant to Senate Bill 34. Sponsored by Senator Ryan Lynch, adopted by the 2023 Montana Legislature, and signed into law by Governor Gianforte, the law pertains to the protection of vulnerable adults, revising terminology related to protective services and defining vulnerable adult. These changes aim to align Montana's rules with state and national best practices.

The department will amend ARM 37.47.101, 37.47.102, 37.47.106, and 37.47.111. These amendments bring the rules in line with current department operations and satisfy Senate Bill 34.

Additionally, the department intends to repeal ARM 37.47.107, consolidating it into ARM 37.47.106, in order to streamline regulatory language. The repeal of ARM 37.47.901, 37.47.904, and 37.47.905, relating to home attendant services, reflects the fact Adult Protective Services no longer provides home attendance services. APS will refer individuals to state and local providers that are appropriate and meet the needs of a vulnerable adult.

These actions comply with the department's authority under 53-20-205, MCA, as well as 53-20-203, MCA, which requires regular rule review and modification.

ARM 37.47.101

The department proposes to amend this rule to align with current department operations and satisfy sections 10 through 21 of Senate Bill 34, codified as 52-3-803, MCA. APS's primary role, as established through statute, is to investigate allegations of abuse, sexual abuse, neglect, or exploitation that APS receives. This proposed revision intends to clearly state APS's purpose.

ARM 37.47.102

The department proposes to amend this rule to align with current department operations and satisfy section 1 of Senate Bill 34, codified as 52-3-803, MCA. The department also proposes definitions to clarify the scope of APS's investigatory responsibilities and ensure consistency in identifying and addressing abuse, neglect, and exploitation of vulnerable adults. The definitions for "Non-voluntary" services and "Protective Services" are proposed because APS sometimes imposes these services to ensure the health and safety of vulnerable adults. APS does not provide direct support or personal care services. Rather, APS is tasked with investigating allegations of adult maltreatment and referring for services to reduce risk that a vulnerable adult will be subject to abuse, neglect, or exploitation. The proposed addition of a reference to the federal definition of adult maltreatment, as provided in 45 C.F.R. § 1324.401, ensures consistency with existing federal regulations. This would avoid redundancy while providing clear guidance for the application of APS protections, particularly for adults who may not fall under elder-specific provisions.

ARM 37.47.106

The department seeks to clearly define APS's role in service delivery in the proposed revisions to this rule. APS does not provide direct support or personal care services. Its role is to identify the need for services and potential providers, and make appropriate referrals. When necessary, APS may impose non-voluntary or emergency protective services, referring individuals to available services to meet their needs. APS does not provide direct services, whether voluntary or non-voluntary. Additionally, the department proposes to repeal ARM 37.47.107 and consolidate its provisions into this rule. The added language would clarify that APS serves all adults in Montana, regardless of income, and does not investigate allegations of maltreatment occurring outside the state.

ARM 37.47.107

The department proposes to repeal this rule and roll its provisions into ARM 37.47.106. This proposed consolidation is intended to streamline regulatory language and ensure all related information is presented in one comprehensive location.

ARM 37.47.111

The proposed changes to this rule are to better define the APS role in assisting vulnerable adults with obtaining services. APS will refer individuals to state and local providers that are

appropriate and meet the needs of the vulnerable adult. A vulnerable adult or authorized alternate decision-maker may accept voluntary services. All reports are received through APS Intake, through the toll-free phone number 1-844-277-9300, or online at www.aps.mt.gov. All reports of adult maltreatment made to other entities need to be routed to APS Intake, so the report can be properly processed and assigned.

ARM 37.47.901, 37.47.904 and 37.47.905

The department proposes to repeal these rules regarding home attendant services as Adult Protective Services does not provide these types of services. APS will refer individuals to state and local providers that are appropriate and meet the needs of the vulnerable adult.

Fiscal Impact

There are no fiscal impacts associated with these rule amendments and repeals.

Effective Date

The department intends these amendments and repeals to be applied retroactively to October 1, 2023, the effective date of SB 34.

Small Business Impact

Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by mail on September 21, 2023.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person listed in this notice.

Rule Reviewer

Mark Prichard

Approval

Charles T. Brereton, Director

Department of Public Health and Human Services



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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-280.1

Summary

Amendment of ARM 37.40.1013 pertaining to Community First Choice Provider Enrollment

Hearing Date and Time

Friday, March 14, 2025, at 11:00 a.m.

Virtual Hearing Information

Join Zoom Meeting at: <https://mt-gov.zoom.us/j/88455307468?pwd=uFDtoLJKYxArRDtuaG8Cx4pgmlka33.1>

Meeting ID: 884 5530 7468, and password: 547430

Dial by telephone: +1 646 558 8656, meeting ID: 884 5530 7468, and password: 547430.

Find your local number: <https://mt-gov.zoom.us/j/88455307468?pwd=uFDtoLJKYxArRDtuaG8Cx4pgmlka33.1>

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, February 28, 2025, at 5:00 p.m.

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

37.40.1013 AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: PROVIDER ENROLLMENT

- (1) Providers will enroll as a Community First Choice Services (CFCS)/Personal Care Services (PCS) ~~personal care attendant~~ provider, a CFCS/PCS personal emergency response system (PERS) provider, or both. Providers must enroll through the department's fiscal intermediary.
- (2) CFCS/PCS providers must be ~~businesses incorporated under the laws of the state of Montana~~ a business entity formed or registered to do business under Montana law.
- (3) CFCS/PCS providers must submit a description of the proposed service area, which must include, at a minimum, coverage of the entire area of at least one county or Indian reservation.
- (4) CFCS/PCS ~~personal care attendant service~~ providers must comply with onsite visit requirements both before and after enrollment, to verify information submitted to the department.
- (5) CFCS/PCS ~~personal care attendant service~~ providers must provide the documentation to demonstrate the following:
 - (a) general liability insurance with a minimum coverage of \$1,000,000 per occurrence and \$2,000,000 aggregate;
 - (b) motor vehicle liability insurance with split limits of \$500,000 per person for personal injury, \$1,000,000 per accident occurrence for personal injury, and \$100,000 per accident occurrence for property damage; or, combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the provider or its agents, officers, representatives, assigns, or subcontractors;
 - (c) current unemployment insurance and workers' compensation coverage; and
 - (d) verification of completion of the department's mandatory CFCS/PCS training.
- (6) CFCS/PCS ~~attendant-based~~ providers ~~will select~~ must elect to deliver either the agency-based or self-directed CFCS/PCS option. Once a provider has completed a successful compliance review, the provider may enroll in the other service option.
- (7) CFCS/PCS providers must use an Electronic Visit Verification (EVV) system to electronically document the delivery of services and submit claims.

(a) In accordance with 42 U.S.C. 1396b(l), the EVV system must capture the following data elements:

- (i) the type of service performed;
- (ii) the member receiving the service;
- (iii) the date of the service;
- (iv) the location of the service delivery;
- (v) the individual providing the service; and
- (vi) the time the service begins and ends;

(b) The use of EVV is required for all members utilizing CFCS/PCS, including members for whom services are provided by a live-in caregiver.

~~(7)~~(8) The department may contract with out-of-state agencies to provide CFCS/PCS for Montana Medicaid members temporarily living out of state.

Authorizing statute(s): 53-2-201, MCA

Implementing statute(s): 53-2-201, 53-6-113, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) proposes to amend ARM 37.40.1013 relating to enrollment of Community First Choice Services (CFCS) and Personal Care Service (PCS) providers to require use of Electronic Visit Verification (EVV).

Section 12006(a) of the federal 21st Century Cures Act, Pub. L. 114-255, signed into law on December 13, 2016, added subsection 1903(l) to the Social Security Act, which mandates that states require EVV use for Medicaid-funded personal care services and home health care services for in-home visits by a provider. EVV is a technology that automates the gathering of service information by capturing time, attendance, and care plan information entered by a home care worker at the point of care.

Under current Centers for Medicare & Medicaid Services (CMS) guidance, federal EVV requirements do not apply if the individual receiving personal care or home health care lives with the caregiver providing the service because CMS does not consider such services to constitute an “in-home visit.” However, states are encouraged to provide appropriate

oversight to services provided by live-in caregivers and may choose to implement EVV to such services, particularly when using discrete units of reimbursement.¹

In Montana, a CFCS/PCS provider is paid in discrete units of reimbursement of 15-minute increments. To control fraud, waste, and abuse, the department is proposing in this rulemaking for EVV requirements to apply to services provided to all members utilizing CFCS/PCS, including members for whom services are provided by a live-in caregiver. EVV combats fraud, waste, and abuse in several different ways. First, EVV provides for accurate timekeeping of services by automatically recording the exact time a caregiver clocks in and out, which prevents errors in time entry and billing for more time than is actually worked in providing services. Second, EVV provides for location verification at the time of services, to confirm a caregiver's location at the time of reported services. Third, EVV facilitates data analysis to proactively allow provider agencies and the department to identify patterns of potential abuse and other concerns, such as excessively long shifts or inconsistent care delivery. Fourth, EVV reduces administrative burden for provider agencies by allowing for automatic timekeeping, reducing the need for manual paperwork and the potential for errors in billing.

The department is also proposing to amend ARM 37.40.1013(2) to clarify that CFCS/PCS providers are required to be business entities that are formed or registered to do business under Montana law. The rule currently provides that CFCS/PCS providers are required to be incorporated. The proposed rule change is necessary to align with the department's existing practice of not limiting provider enrollment to just corporate entities and allowing other types of business entities, such as limited liability companies, to enroll as CFCS/PCS providers.

¹CMS Informational Bulletin, FAQ #1 (Aug. 9, 2019), <https://www.medicaid.gov/federal-policy-guidance/downloads/cib080819-2.pdf>.

Fiscal Impact

There is no fiscal impact associated with this rulemaking.

Contact

Bailey Yuhas
(406) 444-4094
hhsadminrules@mt.gov
Fax: (406) 444-9744

Comments

Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the contact information listed above. Comments must be received by Friday, March 21, 2025, at 5:00 p.m.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person listed above.

Bill Sponsor Notification

The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

Small Business Impact

Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

Medicaid Performance-Based Statement

Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

Rule Reviewer

Robert Lishman

Approval

Charles T. Brereton, Director

Department of Public Health and Human Services



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SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-24.1

Summary

This rulemaking proposes an extension of the waiver for state agency filing fees related to publication in the Montana Administrative Register.

Hearing Date and Time

Monday, March 17, 2025, at 1:30 p.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, March 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, March 10, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

1.4.107 AGENCY FILING FEES

- (1) Starting in fiscal year ~~2026~~ 2027 and each fiscal year thereafter, an agency shall choose one of two methods for paying filing fees for the services provided by the Secretary of State in the review and publication of notices in the Montana Administrative Register (MAR).
 - (a) and (b) remain the same.

Authorizing statute(s): 2-15-401, 2-15-405, MCA

Implementing statute(s): 2-4-313, 2-15-405, MCA

Reasonable Necessity Statement

Pursuant to 2-15-401, MCA, the Secretary of State may adopt rules to effectively administer Title 2, chapter 4 (Administrative Procedure Act) of the Montana Code Annotated, and 2-15-405, MCA requires fees charged by the Secretary of State to be set by administrative rule. With the implementation of the new administrative rules platform in 2025, the Secretary will be evaluating the relative usage of the system and efficiencies gained in order to ensure fees are commensurate with cost. With the Secretary of State continuing to waive fees for state agencies to publish their administrative rulemaking packages in fiscal year 2026, the state agencies can more easily transition to the new system. Through this proposal, the Secretary is

able to extend savings from the operational efficiencies in the Secretary of State's Office to the other state agencies.

Fiscal Impact

It has been determined that the proposed amendment to ARM 1.4.107 would provide approximately \$100,000 in taxpayer savings for 21 state agencies in fiscal year 2026 and will not have a fiscal impact starting in fiscal year 2027.

Small Business Impact

Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at <https://sosmt.gov/arm/secretary-of-state-administrative-rules/> or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State



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SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-33.1

Summary

This rulemaking proposes the waiver of the 2026 and 2027 Annual Report Fees for all businesses registered in Montana.

Hearing Date and Time

Monday, March 17, 2025, at 2:00 p.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, March 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, March 10, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.5.303 ~~2024 AND 2025~~ ANNUAL REPORT FEE WAIVERS

- (1) ~~For all 2024 annual reports filed between January 1, 2024, and April 15, 2024, and all 2025 annual reports filed between January 1, 2025, and April 15, 2025, the~~ Secretary of State's Office will waive the fee required by ARM 44.5.114(3)(e) and 44.5.115(3)(d):
- (a) for all 2024 annual reports filed between January 1, 2024, and April 15, 2024;
 - (b) for all 2025 annual reports filed between January 1, 2025, and April 15, 2025;
 - (c) for all 2026 annual reports filed between January 1, 2026, and April 15, 2026;
and
 - (d) for all 2027 annual reports filed between January 1, 2027, and April 15, 2027.

Authorizing statute(s): 2-15-405, MCA

Implementing statute(s): 2-15-405, MCA

Reasonable Necessity Statement

Montana continues to experience record growth in new business filings. In addition, the implementation and continued enhancements to the online business filing system provide efficiencies that reduce the review and processing time of the Secretary of State's Office staff.

Montana law (2-15-405, MCA) allows the Secretary of State to establish fees commensurate with the overall costs of the office. This administration continues to make it a priority to proactively review the office's revenue and operational expenses. Through these continued efforts, the office provided fee waivers in 2024 and 2025 for annual report filings, and is proposing to provide additional fee waivers for 2026 and 2027.

Fiscal Impact

With regard to the requirements of 2-4-302(1)(c), MCA, it has been determined that these changes will have a fiscal impact. It is estimated that there are currently approximately 281,700 active businesses. If those businesses file their 2026 and 2027 annual report by the deadline, the elimination of the annual report filing fee will result in an estimated \$11,268,000 savings for those businesses. The estimated impact for each fee is below:

- 44.5.114(3)(e) — Corporations
 - Approximately 87,300 businesses will save \$3,492,000 through these fee waivers.
 - 44.5.115(3)(d) — Limited Liability Companies
 - Approximately 194,400 businesses will save \$7,776,000 through these fee waivers.
-

Small Business Impact

The Secretary of State has determined that the amendment of the above-referenced rule will directly impact small businesses. Based on the Department of Labor and Industry's Quarterly Census of Employment and Wages, 99.3% of all Montana businesses are small businesses. Therefore, it is estimated that approximately 281,700 businesses registered with the Secretary of State's Office will be positively impacted by the proposed annual report fee waiver in 2026 and 2027.

Bill Sponsor Notification

The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at <https://sosmt.gov/arm/secretary-of-state-administrative-rules/> or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or

delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State



**MONTANA
ADMINISTRATIVE
REGISTER**



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 37-1075

Summary

Amendment of ARM 37.8.104 and 37.8.108 pertaining to Authorized Format for Submission of a Vital Record and Amendment Process and Document Requirements

Previous Notice(s) and Hearing Information

On December 20, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1075 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2604 of the 2024 Montana Administrative Register, Issue Number 24.

The public hearing was held on January 10, 2025.

Final Rulemaking Action – Effective March 17, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

37.8.104 AUTHORIZED FORMAT FOR SUBMISSION OF A VITAL RECORD

37.8.108 AMENDMENT PROCESS AND DOCUMENT REQUIREMENTS

Statement of Reasons

No comments were received.

Contact

Bailey Yuhas
(406) 444-4094
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rule Reviewer

Robert Lishman

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services



**MONTANA
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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 37-1100

Summary

Amendment of ARM 37.106.2502, 37.106.2505, 37.106.2510, 37.106.2512, and 37.106.2514 and repeal of ARM 37.106.2513 and 37.106.2522 pertaining to Retirement Homes

Previous Notice(s) and Hearing Information

On December 20, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1100 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 2615 of the 2024 Montana Administrative Register, Issue Number 24.

The public hearing was held on January 14, 2025.

Final Rulemaking Action – Effective February 22, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

37.106.2502 RETIREMENT HOMES: APPLICATION OF OTHER RULES

37.106.2505 RETIREMENT HOMES: FIRE AND BUILDING CODES APPROVAL

37.106.2510 RETIREMENT HOMES: PHYSICAL REQUIREMENTS

37.106.2512 RETIREMENT HOMES: WATER SUPPLY AND WASTEWATER SYSTEMS

37.106.2514 RETIREMENT HOMES: SOLID WASTE

REPEAL

The agency has repealed the following rules as proposed:

37.106.2513 RETIREMENT HOMES: SEWAGE SYSTEM

37.106.2522 RETIREMENT HOMES: FOOD SERVICE REQUIREMENTS

Statement of Reasons

No comments were received.

Contact

Bailey Yuhas
(406) 444-4094
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rule Reviewer

Greg Henderson

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services



MONTANA
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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 37-1102

Summary

Repeal of ARM Title 37, chapter 85, subchapter 11 pertaining to the Electronic Health Records Incentive Program

Previous Notice(s) and Hearing Information

On December 20, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1102 pertaining to the proposed repeal of the above-stated rules at page 2622 of the 2024 Montana Administrative Register, Issue Number 24.

Final Rulemaking Action – Effective February 22, 2025

REPEAL

The agency has repealed the following rules as proposed:

37.85.1101 PURPOSE

37.85.1103 DEFINITIONS

37.85.1105 ELIGIBLE PROVIDER REGISTRATION WITH CENTERS FOR MEDICARE AND MEDICAID (CMS) NATIONAL LEVEL REPOSITORY (NLR)

37.85.1107 ELIGIBLE PROVIDER AND ELIGIBLE HOSPITAL ELIGIBILITY VERIFICATION BY DPHHS

37.85.1109 ELIGIBLE HOSPITAL ELIGIBILITY VERIFICATION BY DPHHS

37.85.1111 REGISTRATION, ATTESTATIONS, AND CERTIFICATION

37.85.1113 REPORTING REQUIREMENTS IN FIRST AND SUBSEQUENT YEARS

37.85.1115 PROOF OF ELECTRONIC HEALTH RECORDS CERTIFICATION

37.85.1117 COMMUNICATION WITH PROVIDERS

37.85.1119 APPLICATION FOR PAYMENTS BY AN ELIGIBLE PROVIDER OR ELIGIBLE HOSPITAL

37.85.1121 ELIGIBLE PROVIDER INCENTIVE PAYMENT SCHEDULE

37.85.1123 ELIGIBLE HOSPITAL INCENTIVE PAYMENT CALCULATION

37.85.1125 DENIALS AND APPEALS

Statement of Reasons

No comments were received.

Contact

Bailey Yuhas
(406) 444-4094
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rule Reviewer

Greg Henderson

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services



MONTANA
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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 37-1110

Summary

Amendment of ARM 37.27.902, 37.85.105, and 37.88.101 pertaining to updating Medicaid and non-Medicaid provider rates, fee schedules, and effective dates

Reason for Supplemental Notice

The Department of Public Health and Human Services is publishing this supplemental notice to extend the comment period for the proposed amendment of the above-stated rules. The department published MAR Notice No. 37-1110 on December 20, 2024, with a comment period through January 17, 2025. A public hearing was held on January 13, 2025. However, the manual for Policy 002 listed in the Statement of Reasonable Necessity was not posted to the department's website during the initial comment period. Because the manual for Policy 002 was not posted in a timely manner, the department is extending the comment period for a period of 28 days. The policy manual can be found at: <https://dphhs.mt.gov/bhdd/SubstanceAbuse/January2025BHDDMedicaidServicesProviderManual>.

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, March 21, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, March 7, 2025, at 5:00 p.m.

Contact

Bailey Yuhas
(406) 444-4094
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rulemaking Actions

The rulemaking actions presented in the original notice remain as proposed.

Rule Reviewer

Bree Gee

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services



**MONTANA
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REGISTER**



FISH, WILDLIFE AND PARKS

NOTICE OF ADOPTION OF EMERGENCY RULE

MAR NOTICE NO. 2025-54.1

Summary

Adoption of an emergency rule closing the Ennis Fishing Access Site on the Madison River in Madison County

Reason

The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(1) There are ice jams resulting in water and ice on the entrance road, boat ramp, and in the campground on the Madison River causing unsuitable conditions at the Ennis Fishing Access Site.

(2) The combination of dangerous conditions includes ice-covered roadways and accessways and flooding, ultimately rendering unsafe conditions for pedestrian and vehicle travel.

(3) The site will remain closed until the ice recedes and it is safe for the public to recreate there. Persons recreating at the fishing access site would be at risk of unsafe roadways, injury, or drowning.

(4) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 4 of the 2025 Montana Administrative Register.

Effective Date

Wednesday, February 5, 2025

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, March 7, 2025 at 5:00 p.m.

Contact

Kara Thompson
406-594-8071
Kara.Thompson@mt.gov

ADOPT

The agency is adopting:

RULE 1 EMERGENCY CLOSURE OF THE ENNIS FISHING ACCESS SITE

- (1) The Ennis Fishing Access Site is located in Madison County.
- (2) The Ennis Fishing Access Site is closed to pedestrian and motorized vehicle use.
- (3) This rule will expire as soon as the department determines the ice jams no longer present a risk to public health and safety. Signs closing the Ennis Fishing Access Site will be removed when the rule is no longer effective.

Authorizing statute(s): 2-4-303, 87-1-202, MCA

Implementing statute(s): 2-4-303, 87-1-202, MCA

Interested Persons

The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, commission or board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or

email address of the person to receive the notice. Such written request may be mailed or delivered to the Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be completed online at <https://public.govdelivery.com/accounts/MTFWP/subscriber/new>.

Committee Notification

The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by email on Wednesday, February 5, 2025.

Rule Reviewer

Kevin Rechhoff

Approval

Christy Clark, Director



**MONTANA
ADMINISTRATIVE
REGISTER**



FISH, WILDLIFE AND PARKS

NOTICE OF ADOPTION OF EMERGENCY RULE

MAR NOTICE NO. 2025-65.1

Summary

Adoption of an emergency rule closing the York's Islands Fishing Access Site on the Missouri River in Broadwater County

Reason

The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

- (1) There are ice jams resulting in water and ice on the boat ramp and adjacent turnaround causing unsuitable conditions at the York's Islands Fishing Access Site.
- (2) The combination of dangerous conditions includes a large ice jam resulting in water and ice on the entrance road, boat ramp, and in the campground, ultimately rendering unsafe conditions for pedestrian and vehicle travel. The entire site will remain closed until the ice recedes.
- (3) The closure will remain in place until the ice clears and the site is safe to be used again and it is safe for the public to recreate there. Persons recreating at the fishing access site may be at risk of unsafe roadways, injury or drowning.
- (4) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. This emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 4 of the 2025 Montana Administrative Register.

Effective Date

Wednesday, February 12, 2025

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, March 7, 2025 at 5:00 p.m.

Contact

Audrey Kelly
406-594-8073
Audrey.Kelly@mt.gov

ADOPT

The agency is adopting:

RULE 1 EMERGENCY CLOSURE OF THE YORK'S ISLANDS FISHING ACCESS SITE

- (1) The York's Islands Fishing Access Site is located in Broadwater County.
- (2) The York's Islands Fishing Access Site is closed to pedestrian and motorized vehicle use.
- (3) This rule will expire as soon as the department determines the ice jams have cleared and no longer present a risk to public health and safety. Signs closing the York's Islands Fishing Access Site will be removed when the rule is no longer effective.

Authorizing statute(s): 2-4-303, 87-1-202, MCA

Implementing statute(s): 2-4-303, 87-1-202, MCA

Interested Persons

The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department, commission or board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Written request may be mailed or delivered to the Department of Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be completed online at <https://public.govdelivery.com/accounts/MTFWP/subscriber/new>.

Committee Notification

The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by e-mail on Thursday, February 13, 2025.

Rule Reviewer

Jaime MacNaughton

Approval

Christy Clark, Director



**MONTANA
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OFFICE OF THE GOVERNOR

VACANCIES AND APPOINTMENTS

FEBRUARY 2025

UPCOMING VACANCIES – MARCH 2025

- Board of Barbers and Cosmetologists
- Board of Optometry
- Public Employees' Retirement Board
- Board of Real Estate Appraisers
- State Compensation Insurance Fund Board of Directors

https://governor.mt.gov/boards_appointments/

RECENT APPOINTMENTS – JANUARY 2025

- **BOARD OF CHIROPRACTORS**
 - Michael Matury
 - 1/1/25 - 7/1/27
 - Predecessor: Nynas
 - Qualification: Licensed Chiropractor
 - Dustin Rising
 - 1/1/25 - 7/1/28
 - Predecessor: Reappointed
 - Qualification: Licensed Chiropractor
 - Caitlin Walter
 - 1/1/25 - 7/1/26
 - Predecessor: Forrette
 - Qualification: Licensed Chiropractor
- **COAL BOARD**
 - Hal Fuglevand
 - 1/5/25 - 1/3/29

- Predecessor: Reappointed
 - Qualification: District 2 – Impact Area
 - Catherine Laughner
 - 1/5/25 - 1/3/29
 - Predecessor: Reappointed
 - Qualification: District 1 – Attorney
 - Scott Rosenthal
 - 1/5/25 - 1/3/29
 - Predecessor: Not provided
 - Qualification: District 1 – Engineering
 - Jon Wells
 - 1/5/25 - 1/3/29
 - Predecessor: Reappointed
 - Qualification: District 2 – Impact Area
- **BOARD OF HAIL INSURANCE**
 - Bing Von Bergen
 - 1/7/25 - 5/1/28
 - Predecessor: Reappointed
 - Qualification: Public Member
- **BOARD OF HORSE RACING**
 - Janis Calton
 - 1/1/25 - 1/1/28
 - Predecessor: Reappointed
 - Qualification: District 5 Representative
 - Corey Jones
 - 1/1/25 - 1/1/28
 - Predecessor: Reappointed
 - Qualification: Horse racing Industry Representative
 - Jody Smith
 - 1/6/25 - 1/1/27
 - Predecessor: Reappointed
 - Qualification: District 1 Representative
- **BOARD OF HOUSING**
 - Richard Miltenberger
 - 1/6/25 -1/1/27
 - Predecessor: Replacement term
 - Qualification: Member experienced in housing, economics, or finance
 - Amber Parish
 - 1/6/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Member experienced in housing, economics, or finance

- **BOARD OF PARDONS AND PAROLE**

- Melanie Etchemendy
 - 1/6/25 - 1/1/31
 - Predecessor: Reappointed
 - Qualification: Experience in corrections and American Indian Culture
- Joseph McElroy
 - 1/6/25 - 1/1/31
 - Predecessor: Reappointed
 - Qualification: Experience in corrections, the criminal justice system, or criminal law

- **BOARD OF PLUMBERS**

- Mike Daines
 - 1/14/25 - 7/1/25
 - Predecessor: Gruizenga
 - Qualification: Professional engineer qualified in mechanical engineering

- **BOARD OF PUBLIC EDUCATION**

- Julia Maxwell
 - 1/6/25 -2/1/28
 - Predecessor: Hedalen
 - Qualification: District 1 – Republican

- **COMMISSION FOR HUMAN RIGHTS**

- Curtis Almy
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Public Member
- Peter Damrow
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Attorney
- Connie Sartain
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Public Member

- **MONTANA FACILITY FINANCE AUTHORITY**

- Eric Hanson
 - 1/6/25 - 1/2/29
 - Predecessor: Goroski
 - Qualification: Public Member
- John Iverson

- 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Public Member
- Vu Pham
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Attorney
- Mel Reinhardt
 - 1/6/25 - 1/31/25
 - Predecessor: Reappointed
 - Qualification: Public Member
- **HARD ROCK MINING IMPACT BOARD**
 - Clint Rech
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 2 Representative
 - Ray Sheldon
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 2 Representative
 - Mark Thompson
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 1 Representative
- **BOARD OF INVESTMENTS**
 - Mark Barry
 - 1/6/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Financial Community Representative
 - Jeff Meredith
 - 1/6/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Small Business Representative
 - John Milanovich
 - 1/6/25 -1/2/29
 - Predecessor: Not provided
 - Qualification: Financial Community Representative
 - Maggie Peterson
 - 1/6/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Member of Public Employees' Retirement Board
 - Daniel Trost

- 1/6/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Member of Teachers' Retirement Board
- **BOARD OF MEDICAL EXAMINERS**
 - Donald Skillman
 - 1/23/25 -7/1/28
 - Predecessor: Not provided
 - Qualification: Doctor of Medicine
- **MONTANA GRASS CONSERVATION COMMISSION**
 - Kevin Elias
 - 1/1/25 - 1/1/28
 - Predecessor: Stuker
 - Qualification: Holds a grazing preference
- **NORTHWEST POWER AND CONSERVATION COUNCIL**
 - Doug Grob
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Receives 1/3 of power supply from Bonneville Power Administration
 - Mike Milburn
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Energy Policy Expertise
- **BOARD OF OIL AND GAS CONSERVATION**
 - Roy Brown
 - 1/5/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Public Member
 - Mac McDermott
 - 1/5/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Oil and Gas Industry
 - Barbara Skelton
 - 1/5/25 -1/3/29
 - Predecessor: Not provided
 - Qualification: Landowner residing in oil or gas producing county, not involved with industry, with no mineral rights
 - Corey Welter
 - 1/5/25 -1/2/29
 - Predecessor: Reappointed

- Qualification: Oil and Gas Industry
- Jeffrey Wivholm
 - 1/5/25 -1/2/29
 - Predecessor: Reappointed
 - Qualification: Landowner residing in oil and gas producing county, not involved with industry or with mineral rights
- **PRIVATE LAND/PUBLIC WILDLIFE ADVISORY COMMITTEE**
 - Craig Jourdonnais
 - 1/6/25 -8/1/25
 - Predecessor: Albus
 - Qualification: Outfitter
- **STATE BOARD OF PARKS AND RECREATION**
 - Russell Kipp
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 2 Representative
 - Jody Loomis
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 1 Representative
 - Kathy McLane
 - 1/6/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 4 Representative
- **TRANSPORTATION COMMISSION**
 - Scott Aspenlieder
 - 1/14/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 5 Representative
 - Bob Cloninger
 - 1/14/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: Dept of Transportation Representative
 - Loran Frazier
 - 1/14/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 3 Representative
 - Shane Sanders
 - 1/14/25 - 1/2/29
 - Predecessor: Reappointed
 - Qualification: District 2 Representative